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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,654	08/20/2003	Lynn P. Tessier	1984-2-3	5430
996	7590	12/27/2005		
GRAYBEAL, JACKSON, HALEY LLP 155 - 108TH AVENUE NE SUITE 350 BELLEVUE, WA 98004-5901			EXAMINER ROSENBAUM, MARK	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7/25

Office Action Summary

Application No.

10/644,654

Applicant(s)

TESSIER ET AL.

Examiner

Mark Rosenbaum

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Allowable Subject Matter

The indication of allowable subject matter is hereby withdrawn in view of the newly found art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by the French patent (France). Figures 2,3,4 and 6 show a throwing wheel with enclosed channels.

Claim Rejections - 35 USC § 103

Claims 19,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over France. The shape of the channels and the exact number of channels would have been obvious design choices by one skilled in the art once the basic apparatus was known as in France as they solve no stated problems.

Claims 1-14,31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the German '895 patent (German) in view of France. German shows the basic apparatus including oppositely rotating impactors and throwing wheel. There are no enclosed channels in the throwing wheel which results in uneven material flow. France solves this problem by disclosing the use of enclosed channels to direct material flow.

In order to direct material flow, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify German by providing enclosed channels on the throwing wheel, taught to be desirable by France. The remaining limitations of these claims would have been obvious design choices only as they solve no stated problems. For example, the exact number of channels used would depend on several factors such as material size being thrown and desired control of flow movement. Also, the use of a second rotor would have been obvious if it was desired to further comminute the material to a smaller size.

Claims 22-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sautter. Figures 9-11 of this patent show the use of an impactor having rotating vanes angled to the rotor axis. The vanes do not include wear plates. The use of wear plates to protect apparatus from premature wear is well known in the mechanical arts. In order to protect the vanes from premature wear, it would have been obvious for one of ordinary skill in the art to modify Sautter by providing wear plates on the vanes since the use of wear plates is well known in the art. The remaining limitations would then have been obvious design choices only as they solve no stated problems. For example, the amount of vanes/teeth used would depend on several factors such as material being treated and desired product size.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Mark Rosenbaum', with a stylized, cursive script.

Mark Rosenbaum
Primary Examiner
Art Unit 3725

MR